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Judge disqualifies Rewald's court-appointed attorney

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Ronald Rewald's court-appointed California attorney was disqualified yesterday because he also is representing an accused spy who may call Rewald as a witness and in turn be a witness in the Rewald case.

U.S. District Court Judge Harold Fong said that attorney A. Brent Carruth had an obvious conflict of interest and that Magistrate Joseph Gedan had clearly erred in appointing him.

Judge Fong said he was confident the federal public defender in Hawaii, Michael Levine, could continue to represent Rewald adequately.

Judge Fong also declared that he didn't believe the CIA was an issue in Rewald's defense on 100 counts of perjury, fraud and tax evasion.

That opinion, while not a ruling in the case, strikes at the heart of Rewald's claim that the CIA created and ran and caused the collapse of his Honolulu firm, Bishop, Baldwin, Rewald, Dillingham & Wong.

In a new affidavit filed under seal but released by the court yesterday, Rewald insisted that "any and all activity undertaken by me at Bishop Baldwin was in concert with and under the instructions of the CIA... I was an employee of the Central Intelligence Agency at all times during the period contained in the indictment."

Fong said he was "not presently persuaded that any CIA involvement... is an issue in defense of" criminal charges against Rewald.

Carruth had argued that Rewald and his other client, accused spy Richard Craig Smith, both want Carruth to mount a common defense against the CIA.

Smith, like Rewald, says he is innocent because the CIA made him do what he did.

Smith, accused of selling names of counterintelligence agents to the Soviets in Japan in 1982 and 1983, claims

he used a Hawaii telephone number to make contact with his CIA handlers.

The number Smith produced this year turned out to be the listed telephone number for Rewald's firm.

There are some immediate questions raised by Smith's story, which was elaborated after the Rewald case became well-known.

One is that Smith says the telephone was answered merely, "hello," while persons who worked at the firm said it was answered with the company name.

Another is that Rewald has said he had never heard of Smith prior to this year. Since Rewald claims he was a paid CIA operative and the head of Bishop Baldwin, his ignorance of Smith raises questions about how or whether Smith's supposed telephone message left at Bishop Baldwin could have been relayed to the CIA.

Carruth's memorandum and affidavits by Rewald and Smith attached to it laid out more details of their stories:

- The telephone number called by Smith, Rewald says, "did belong to the agency (CIA) and was used for agency business" and "messages were passed on to Richard Cavanaugh," the cover name for a man now generally acknowledged to have been a CIA intelligence officer who used Bishop Baldwin and a subsidiary as cover.

- The CIA, according to Smith and Carruth, admitted in closed hearings in Smith's case that Cavanaugh spoke to Smith in San Francisco. No date is given, nor is there any indication that the conversation was more than a request by Smith for a meeting about his supposed CIA role.

- The judge in the Smith case told the prosecutors to ask the CIA to make Cavanaugh available for interview by the defense, Carruth said. But Cavanaugh has now been "fired" and is described as an "ex-CIA agent." The reason, Carruth said, is "so they don't have to produce him." Carruth's interpretation: "Cavanaugh still works for the CIA but under deep cover."

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• This case, Carruth said, "leads all the way to the CIA in Langley, which was directed during its course by Vice President (George) Bush. There is evidence, which shall be presented in later (classified information) hearings, that Bush personally was aware of Bishop Baldwin and met with Rewald."

• Rewald says it may do little good to call any CIA agents for his own trial because "each and every agent is likely to commit perjury." Further, Rewald says, "most documents have been destroyed or are controlled by the agency. Most bank accounts have disappeared. The agency has covered people and documents." Despite the fact that Carruth filed the material under seal, Assistant U.S. Attorney Peyton denounced the memorandum and the affidavits as a knowing attempt to use the media to poison the minds of potential jurors with unsupported claims that would never be admitted into evidence in court.